

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
HUNTINGTON PARK APARTMENTS/)
DENNIS HUGHES,)
)
Complainants,)
) No. 02-0001
vs.)
)
COMMONWEALTH EDISON COMPANY,)
)
Respondent.)
)
Complaint as to failure to)
comply with Title 83 in)
Aurora, Illinois.)

Chicago, Illinois
March 11, 2003

Met, pursuant to adjournment, at 11:00 a.m.

BEFORE :

Mr. Sherwin Zaban, Administrative Law Judge

APPEARANCES:

MR. MARTIN J. KENNEDY
350 North LaSalle Street
Suite 800
Chicago, Illinois
appearing for complainant;

FOLEY & LARDNER, by
MR. ROBERT C. FELDMEIER
321 North Clark Street
Suite 2100
Chicago, Illinois 60610

appearing for respondent;

1 APPEARANCES (cont.):

2 EXELON BUSINESS SERVICES, by
3 MS. FELICIA FRANCO-FEINBERG
4 10 South Dearborn Street
5 Floor 35
6 Chicago, Illinois 60603
7 appearing for respondent.
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21 SULLIVAN REPORTING COMPANY, by
22 Jean M. Plomin, CSR, RPR
License No. 084-003728

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I N D E X

Re- Re- By
Witnesses: Direct Cross direct cross Examiner
None.

E X H I B I T S

Number For Identification In Evidence
None.

1 JUDGE ZABAN: By the power vested in me by the
2 Illinois Commerce Commission, I call Docket No.
3 02-0001, Huntington Park Apartments versus
4 Commonwealth Edison.

5 Will the parties please identify
6 themselves and enter their appearances for the
7 record.

8 MR. KENNEDY: Yes. Martin Kennedy appearing on
9 behalf of Huntington Park. I'm here with Mr. Hughes.

10 MS. FEINBERG: On behalf of Commonwealth Edison
11 Company, Felicia Franco-Feinberg, Exelon Business
12 Services, 10 South Dearborn, Floor 35, Chicago,
13 Illinois, 60603.

14 MR. FELDMEIER: Also for ComEd, Robert
15 Feldmeier, Foley & Lardner, 321 North Clark,
16 Suite 2100, Chicago, Illinois, 60610.

17 JUDGE ZABAN: Okay. This matter is up for
18 status today, so what's the status?

19 MR. KENNEDY: Since our last hearing, counsel
20 and I have executed and served on the Chief Clerk, I
21 believe, the requested notification as far as waiving
22 the one-year term.

1 We have received and reviewed the
2 encapsulation of the distillation of the issues. I
3 believe we responded to that. And we agree to
4 disagree, so we're going to be going to trial on
5 this.

6 JUDGE ZABAN: Okay. I know we've already set a
7 status date of April the 22nd at 10:30.

8 MR. FELDMEIER: I think that's a trial date,
9 Judge.

10 JUDGE ZABAN: It's a trial date.

11 How many witnesses do you plan on
12 having, Mr. Kennedy?

13 MR. KENNEDY: I will have Mr. Hughes. We are
14 contemplating subpoenaing Jerry Doragon (ph.) Who is
15 an employee of the respondent company. And I would
16 be asking the Commission to take administrative
17 notice of the informal complaint docket filed that is
18 down in Springfield which I haven't seen yet. So we
19 will have one and a half witnesses, I guess.

20 JUDGE ZABAN: Okay. Are you going to do this
21 all through direct testimony, or are you going to
22 offer any prefiled testimony?

1 MR. KENNEDY: I have spoken with my client and
2 have provided him with the format, and I think we'll
3 go with the prefiled testimony.

4 MR. FELDMIEIER: It would be our preference also
5 to have prefiled testimony. We were hoping that one
6 of the things we could do today would be to set up a
7 schedule to fit the prefiled pieces in consistent
8 with the hearing date that we have.

9 JUDGE ZABAN: Okay. Mr. Kennedy, how long do
10 you think it will take for you to get your prefiled
11 testimony down to the Clerk's office, prepare it and
12 file it?

13 MR. KENNEDY: 14 days.

14 JUDGE ZABAN: Okay. So then by March the 25th
15 you should be able to have your prefiled testimony
16 in?

17 MR. KENNEDY: That's correct.

18 JUDGE ZABAN: Okay. Mr. Feldmeier, how long
19 will it take you to get your testimony?

20 MR. FELDMIEIER: Our thinking was if we could
21 have two weeks from the time of their filing which, I
22 guess, would put us at April 8.

1 JUDGE ZABAN: Okay.

2 MR. FELDMEIER: To file our testimony.

3 JUDGE ZABAN: Okay. And then what I will do
4 then is I will leave you an additional week until
5 April the 15th to file any rebuttal testimony in
6 terms of the direct.

7 And I'm going to assume that the
8 parties are going to be cross-examining the
9 witnesses. If there's any witness that you don't
10 feel is necessary for cross-examination, I'd ask the
11 two of you to exchange that information amongst
12 yourselves so that we don't need to have that witness
13 unnecessarily here, number one.

14 Number two, by the close of business
15 on the 18th, what I would like to have from each one
16 of you is a list of your witnesses and a brief
17 position statement in terms of what you think this
18 matter is about and the issues you're going to be
19 addressing.

20 MR. KENNEDY: 18th of March or April?

21 JUDGE ZABAN: Of April.

22 That way each one of you will have all

1 the testimony and have an opportunity to examine it.
2 I'm sure you have a pretty good idea at this point so
3 that I can have those -- actually if you would have
4 them to me by noon on the 18th because it's actually
5 Good Friday, and I'll be able to look at them over
6 the weekend. Okay.

7 MR. KENNEDY: Uh-huh.

8 JUDGE ZABAN: And then we're ready to go on the
9 22nd.

10 Okay. Anything further we need to
11 consider?

12 MR. FELDMEIER: There's one outstanding issue.
13 As you know, we've developed a chart of the portions
14 of the bills involved in this case that are in
15 dispute.

16 JUDGE ZABAN: Right.

17 MR. FELDMEIER: Okay. There are substantial
18 portions of those bills that are not in dispute.

19 JUDGE ZABAN: Okay.

20 MR. FELDMEIER: And under the rules of the
21 Commerce Commission, the undisputed amounts are no
22 longer subject to the stay that applies to ComEd's

1 collection efforts. We're in the process of
2 calculating the numbers and just taking out the
3 numbers for the disputed amounts. We're going to get
4 that to Mr. Kennedy hopefully sometime this week.

5 I would like to, if we could, Judge,
6 arrive at some sort of process where we could present
7 that number and get those amounts paid. I'm
8 contemplating perhaps copying you on the letter that
9 we send out so you're aware of the amount that we're
10 seeking. And perhaps when we come back in at hearing
11 time, one of the issues that can be addressed is the
12 correctness of the calculation and payment at that
13 time.

14 JUDGE ZABAN: Okay. Actually, you're correct.
15 That can be all done behind the scenes, okay, in
16 terms of between you and Mr. Kennedy in terms of
17 determining what those amounts are.

18 In the past I believe there was an
19 amount due and Mr. Hughes made good on it; is that
20 correct?

21 MR. FELDMEIER: That's a different issue. That
22 was for subsequent -- post-complaint period.

1 JUDGE ZABAN: So Mr. Hughes has some
2 credibility with me in terms of that. I don't see a
3 problem with that. Okay. I mean, I don't know the
4 amount, and I don't know what kind of burden this is
5 going to place on Huntington. But I'm sure that we
6 can arrive at -- or at least work with Mr. Kennedy in
7 terms of what the amount is and how that amount is
8 going to be paid.

9 MR. KENNEDY: Briefly, we did have a chance, I
10 guess, at or subsequent to the last hearing to review
11 the presentation, and we did send along a brief
12 addenda which I'm not sure whether counsel is going
13 to include those items that were in the additional
14 sheet.

15 MR. FELDMEIER: Yes, of course.

16 MR. KENNEDY: So we responded, and we'll review
17 what they send us. But I wanted to make sure that
18 our addenda would be considered as well.

19 MR. FELDMEIER: Of course.

20 JUDGE ZABAN: Well, so far, Mr. Kennedy and
21 Mr. Feldmeier, you've been playing very nicely
22 together, so I don't have a problem with any of that.

1 Okay. Hopefully this will just be a hearing on the
2 facts, and that will end it. Okay.

3 MR. KENNEDY: Okay.

4 JUDGE ZABAN: Anything further?

5 MR. FELDMEIER: Not from ComEd.

6 JUDGE ZABAN: I encourage the parties to
7 continue talking during the process, and I will see
8 you all on the 22nd.

9 MR. KENNEDY: Thank you.

10 MR. FELDMEIER: Thank you.

11 JUDGE ZABAN: Thank you very much.

12 (Whereupon, the above-entitled
13 matter was continued to
14 April 22, 2003, at 10:30 a.m.)

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